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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,490	01/11/2002	Takao Kobayashi	S011-4526	9686

7590

02/10/2004

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EXAMINER

PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

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DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,490

Applicant(s)

KOBAYASHI ET AL.

Examiner

Kenneth E Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,6,11-13 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,6,11-13 and 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Claims 1,5,6,11-13 and 16-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of the independent claims now recites "a pulling direction". This term does not appear to be well supported in the specification or drawings. Applicant recites, in not so few words, that all three wires are pulled in this "pulling direction". However, as these wires follow tortuous paths to their respective brake and throttle, they are pulled in several disparate directions. Even in elected figure 22, the main wire is angled relative to the brake wire and the throttle wire. Likewise, the cables of the prior art move in many different directions. It would difficult for a practitioner to discern is a competitor would or would not be infringing this recitation.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,5,11,13,16,17,18,21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagashima et al.'370 in view of Wen '256 and Nagashima '547.

Nagashima '370 shows a bush cutting machine having most of the recited limitations including a brake wire (18), a throttle wire (20), biasing means (68) and a throttle lever to simultaneously move the two wires.

Nagashima '370 does not show a third wire (main wire) that pulls the other two wires. However, when two pulled wires would otherwise follow the same path, it is well known to replace their parallel portions with a single wire and an intermediate U-shaped link mechanism, as is taught by Wen. Furthermore, in the bush cutting art, Nagashima '547 shows that it is known for one wire (18) to pull two other wires (17,68). It would have been obvious to one of ordinary skill in the art to have modified Nagashima '370 by replacing the parallel portions of wires 18 and 20 with a single wire and u-shaped connector, as taught by Wen and supported by Nagashima '547, in order to reduce the total amount of wire needed, and there reduce the weight and cost of the tool. Placing the new link mechanism *within* the operating lever unit would be an obvious option.

4. Claims 1,5,6,11-13,16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above rejection and further in view of Japanese patent 401116340 to Tabata.

Nagashima '370, as set forth above, has no delay in throttle actuation. However, in the art of levers that control both brake release and throttle, Tabata shows that it is well known to space the end of the throttle cable from the member that moves it (see figure 2) so that there is a clear chronological separation between brake release and engine revving.

It would have been obvious to one of ordinary skill in the art to have modified Nagashima '370 by replacing his throttle line play with a distancing of the end of the throttle cable from its actuation point, as taught by Tabata, in order to insure that the

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engine is not throttled prior to the brake being released.

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson at 703-308-2186, who can normally be reached on Monday thru Thursday between 7am and 4pm. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp
January 15, 2004



KENNETH E. PETERSON
PRIMARY EXAMINER